IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SEVENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and
THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 13681 of 2002

Between:

M/s.Mahendra Jewellery Mart, Rep. by its Proprietor,
ShanthilalSolanki, D.No.11-49-49, Sivalayam Street,
Vijayawada-1.

..... PETITIONER

AND

1 The Secretary, Law Department, Govt. of Andhra Pradesh,
Secretariat Buildings, Saifabad, Hyderabad.
2 The Principal Secretary to Revenue Govt. of Andhra
Pradesh, Secretariat Buildings, Saifabad, Hyderabad.
3 The Commercial Tax Officer,
Convent Street Circle, Vijayawada.

..RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, Order or Direction more particularly in the nature of writ, of Mandamus declaring the provisions of section 32 of the Andhra Pradesh General Sales Tax Act. 1957 are incapable of being exercised and applied in respect of offences that are enumerated in section 30 of the Act and therefore the proceedings of the 3rd Respondent dated 28.02.2002 in O.R.No.Nil purported to have been issued under Section 32 the Act, for

collecting the unnecessary tax and compounding fees vide money receipt no. 4885142 of 26.02.2002 as illegal, arbitrary, without authority of laws and without jurisdiction as also ultra vires Section 30 the Act. end set aside the proceedings or alternately read down section 32 declaring that it has no application in respect of offences contemplated under Section 30 of the Act. and direct the 3rd Respondent to refund/adjust, the amounts collected vide Money Receipt No.4885142 dated 28.02.2002 towards the present taxes payable by the petitioner.

Counsel for the Petitioner: MR.M.V.J.K.KUMAR

Counsel for the Respondents: SPL GP FOR TAXES

The Court made the following:

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ORDER: (Per BRSR,J)

Concededly, the subject matter that arises for consideration in this writ petition is squarely covered by the judgment rendered by this Court in ***AMBICA LAMP HOUSE, RAJAHMUNDRY*** v . ***COMMERCIAL TAX OFFICER (INT)-I ENFORCEMENT, HYDERABAD***.

Following the said decision, this writ petition is also disposed of in terms of the

said judgment.

However, it is made clear that the evidence or material, if any, gathered by the Commercial Tax Department during the course of investigation, can always be utilized for proceeding further in the matter in accordance with the provisions of the A.P. General Sales Tax Act and the Rules framed thereunder.

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B. SUDERSHAN REDDY, J.

Date: 27/04/2005

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C.V. RAMULU, J.

GS/GRR

To

1 The Secretary, Law Department, Govt. of Andhra Pradesh,
Secretariat Buildings, Saifabad, Hyderabad.

2 The Principal Secretary to Revenue Govt. of Andhra Pradesh, Secretariat Buildings, Saifabad, Hyderabad.

3 The Commercial Tax Officer,
Convent Street Circle, Vijayawada.

4 Two CCs to the Special G.P. for Taxes, High Court of A.P., Hyderabad (OUT)

5 Two CD Copies.